

立法會
Legislative Council

LC Paper No. CB(1)2218/06-07
(These minutes have been seen by
the Administration)

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**Subcommittee to Study the Draft Subsidiary Legislation
Relating to the Rail Merger**

**Minutes of meeting on
Thursday, 31 May 2007, at 4:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon TAM Yiu-chung, GBS, JP
(Deputy Chairman and Chair of the meeting)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon LAU Kong-wah, JP
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, JP
Hon WONG Kwok-hing, MH
Hon LI Kwok-ying, MH, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon LEUNG Kwok-hung
Dr Hon Fernando CHEUNG Chiu-hung
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KWONG Chi-kin
Hon TAM Heung-man
- Members absent** : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon LEE Cheuk-yan
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon CHEUNG Hok-ming, SBS, JP

**Public Officers
attending**

: Agenda item I

Mr Patrick HO
Deputy Secretary for the Environment, Transport and
Works

Miss Ida LEE
Principal Assistant Secretary for the Environment,
Transport and Works

Mr Brian CHOI
Assistant Secretary for the Environment, Transport
and Works

Mr Michael LAM Siu-chung
Senior Assistant Law Draftsman
Department of Justice

Miss Clara LEUNG
Government Counsel
Department of Justice

**Attendance by
invitation**

: Agenda item I

MTR Corporation

Mr Leonard TURK
Legal Director & Secretary

Mrs Miranda LEUNG
General Manager – Corporate Relations

Ms Maggie SO
External Affairs & Government Relations Manager

Mr LEUNG Kwok-yiu
Operations Manager – Airport Railway

Mr Martin HANKS
Manager - Merger Coordination

Ms Peggy LEUNG
Associate, Slaughter & May
(Legal Adviser of MTR Corporation)

Kowloon-Canton Railway Corporation

Mr Y T LI
Senior Director, Transport

Ms Ida LEUNG
Senior Public Affairs Manager

Clerk in attendance : Mr Andy LAU
Chief Council Secretary (1)2

Staff in attendance : Ms Connie FUNG
Assistant Legal Adviser 3

Ms Sarah YUEN
Senior Council Secretary (1)6

Miss LAM Yuen-kwan
Clerical Assistant (1)1

Action

- I Meeting with the Administration/the two railway corporations**
(LC Paper No. CB(1)1780/06-07(01) -- Information paper on "Merger-related Subsidiary Legislation" provided by the Administration)

As the Chairman was out of town due to other commitment and would not be able to chair the meeting, the Deputy Chairman chaired this meeting.

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).
3. MTR Corporation Limited (MTRCL) advised that as the objective of the current exercise was for implementing the rail merger, they would therefore confine the proposed amendments to the Bylaws to merger-related matters only. Proposed amendments not directly related to the merger would be looked at separately in the future, which would allow Members more time to study them. MTRCL had reviewed the current draft put before Members and noted that the draft Mass Transit Railway (Amendment) Bylaws in Annex A of LegCo Paper No. CB(1)1780/06-07(01) contained 4 new clauses which were not merger-related. MTRCL advised that they had decided not to include these new clauses in the final version of the amendment bylaws for publication in due course. MTRCL undertook that the post-merger Corporation would carry out a comprehensive review of the by-laws after merger and would report back to

Action

Legislative Council when the review was completed. The items that were withdrawn by MTRCL were clauses 6(a), 23A(2), 28J and 28K of the proposed Mass Transit Railway (Amendment) Bylaws.

Follow-up actions

4. MTRCL was requested to take the following actions –
 - (a) To review the proposed penalty levels for various offences under the draft Mass Transit Railway (Amendment) Bylaw with detailed justifications on the need for introducing new offences or imposing heavier penalties;
 - (b) To review whether the proposed definition of "goods" under by-law 2 of the draft Mass Transit Railway (Amendment) Bylaw was wide enough to cover all types of goods for the purpose of the new Part VIIB "Carriage of Goods"; and
 - (c) To review the use of such Chinese terms as "致使", "准許" and "容受", and to ensure the English versions and Chinese versions of the Mass Transit Railway By-laws would tally with each other.

III Any other business

5. There being no other business, the meeting ended at 6:30 pm.

Council Business Division 1
Legislative Council Secretariat
1 August 2007

**Proceedings of the meeting of
the Subcommittee to Study the Draft Subsidiary Legislation
Relating to the Rail Merger
on Thursday, 31 May 2007, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I – Meeting with the Administration/the two railway corporations			
000000 – 000109	Deputy Chairman (Chair of the meeting and hereinafter called "Chair")	- Opening remarks	
<i>Discussion on the principles adopted for amending the by-laws of the two railway corporations (the By-laws)</i>			
000110 – 000954	Administration	- Briefing by the Administration (LC Paper No. CB(1)1780/06-07(01))	
000955 – 001259	Chair Miss TAM Heung-man Mr WONG Kwok-hing Mr Abraham SHEK	- Discussion on the speaking order	
001300 – 001707	Chair Miss TAM Heung-man MTR Corporation Limited (MTRCL)	- Discussion on the rationale for adopting the higher of the existing maximum levels of penalty for similar offences under the Mass Transit Railway (MTR) By-laws and the Kowloon-Canton Railway Corporation (KCRC) By-laws respectively - MTRCL's indication of willingness to listen to public views and amend the draft subsidiary legislation for the proposed rail merger if necessary	
001708 – 002229	Mr WONG Kwok-hing MTRCL Miss TAM Heung-man	- Discussion on the proposal to postpone the non-merger related amendments to the By-laws to a separate exercise so as not to delay the implementation of the rail merger - Discussion on the appropriateness of increasing the penalty for the offence of "use of abusive language"	
002230 – 002652	Mr Abraham SHEK	- Comments on the proposed amendments to the MTR By-laws and the rationale behind	
002653 – 004236	Chair Mr Andrew CHENG Mr Jeffrey LAM MTRCL Mr KWONG Chi-kin	- Discussion on the justifications for introducing new offences or heavier penalties, in particular imprisonment, and the enforceability of the new offences	

Time marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> - Discussion on the basis for determining the levels of penalty and on the need to make reference to foreign practices 	
004237 – 004712	Dr Fernando CHEUNG MTRCL	<ul style="list-style-type: none"> - Discussion on the appropriateness of and justifications for introducing new offences or heavier penalties under the MTR By-laws 	
004713 – 005300	Chair Prof Patrick LAU MTRCL Miss TAM Heung-man	<ul style="list-style-type: none"> - Comments on the proposed amendments to the MTR By-laws, and emphasis of the need to consult the public on them, and MTRCL's response 	
005301 – 010136	Chair Mr Andrew CHENG Administration MTRCL	<ul style="list-style-type: none"> - Discussion on the appropriateness of and justifications for introducing new offences or heavier penalties under the MTR By-laws - Discussion on the need to pass the relevant subsidiary legislation at the Council meeting on 11 July 2007 	Administration and MTRCL to take necessary follow-up action
010137 – 010518	Mr WONG Kwok-hing Administration	<ul style="list-style-type: none"> - Discussion on the need to deal with proposed amendments to the MTR By-laws which were not merger-related and might require detailed discussion to reach agreement between relevant parties 	
010519 – 011257	Chair Mr Andrew CHENG Administration	<ul style="list-style-type: none"> - Discussion on the need to amend the subsidiary legislation to implement the rail merger, in particular to suspend the existing regulations and by-laws made under the KCRC Ordinance (Cap. 372) during the service concession period when KCRC would cease to operate its railway and bus services 	
<i>Clause-by-clause examination of the proposed amendments to the MTR By-laws (Annex A to LC Paper No. CB(1)1780/06-07(01))</i>			
011258 – 011713	MTRCL	<ul style="list-style-type: none"> - Briefing by MTRCL on the amendments to MTR by-law 2 - Interpretation 	
011714 – 014153	Chair Mr Andrew CHENG MTRCL Administration Assistant Legal Adviser 3 (ALA3)	<ul style="list-style-type: none"> - Enquiry and explanation of the need to delete "restricted area" from MTR by-law 2 - Discussion on how to ensure the new definition "goods" would not cover pets but could cover goods for carriage on the railway by a goods train, and goods 	Administration and MTRCL to take necessary follow-up action

Time marker	Speaker	Subject(s)	Action required
		offered for sale by hawkers in railway premises (new MTR by-laws 39C and 39D)	
014154 – 015251	Chair MTRCL Mr Andrew CHENG Kowloon-Canton Railway Corporation (KCRC)	<ul style="list-style-type: none"> - Briefing by MTRCL on the new MTR by-laws 3A and 4A - Discussion on the need to include different types of conveyances in the new MTR by-laws 3A and 4A - Discussion on the appropriateness of imposing imprisonment penalties and the requirement for quick actions to refasten gate and doors etc under the new MTR by-law 4A 	
015252 – 020235	Chair MTRCL Mr Andrew CHENG KCRC Mr LEUNG Kwok-hung	<ul style="list-style-type: none"> - Briefing by MTRCL on the new MTR by-law 4B - Enquiry and explanation of the basis of MTRCL's existing practice in the absence of an express provision in the MTR By-laws, and discussion on the level of penalty for the offence concerned - Discussion on the appropriateness of the use of the expression "豎設" in the Chinese version of the new MTR by-law 4B - Discussion on the use of such Chinese terms as "致使", "准許" and "容受", and whether the English versions and Chinese versions of the MTR By-laws tallied with each other 	Administration and MTRCL to take necessary follow-up action
Agenda Item II – Any other business			
020236 – 020256	Chair	- Meeting arrangements	